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EXAMINER

TRAN, HAI V

ART UNIT

PAPER NUMBER

2611

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7

Please find below and/or attached an Office communication concerning this application or proceeding.

2

**Office Action Summary**

Application No.

09/587,115

Applicant(s)

DUREAU, VINCENT

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 1-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

The corrected or substitute drawings were received on July 19, 2001. These drawings are accepted.

### ***Claim Objections***

Claims 1-23 are objected to because of the following informalities:

- There is insufficient antecedent basis for the claimed limitation "said programmable device" in claims 1-4, 6, 8, and 10-11. It appears the claimed limitation "said programmable device" refers to "a programmable toy"; therefore, the Applicant is requested to clarify the antecedent of the claimed limitation "said programmable device". Appropriate correction is required.
- There is insufficient antecedent basis for the claimed limitations "said data modules" and "said data" in claims 12-15, 17, 19-21. It appears that the limitations "said data modules" and "said data" do not refer to the limitation "broadcasting data" of independent claim 12; therefore, the Applicant is requested to clarify the antecedent of the foresaid limitations. Appropriate correction is required.
- There is insufficient antecedent basis for the claimed limitation "said toy" in claim 23. It appears that the limitation "said toy" refers to the limitation "a programmable toy". Appropriate correction is required.

The following art rejection is applied to applicant claims as best understood in view of the objection above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3, 8-10 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Heimbürger (DES 386184).

Regarding claim 1, Herz discloses a system (Fig. 1 and 2) comprising:

A receiving station (Television) configured to receive a broadcast signal (radio frequency or base-band video data) containing program data (i.e., EPG) (Col. 8, lines 41-44); and

A programmable device (remote control/RC) configured to be coupled to the receiving station (TV set) and to receive the program data (EPG) from the receiving station (Col. 5, lines 54-Col. 6, lines 9 and Col. 8, lines 44-52).


Wherein one of the receiving station (TV set) and the programmable device (RC) is configured to select a portion of the program data (The RC is configured to select only a portion of the received EPG data based on the

availability of RAM on the RC, see Col. 8, lines 57-60 or based on the user preferred setting stored in the RC, see Col. 10, lines 40-47); and

Wherein the programmable device (RC) is configured to store the portion of the program data (store a portion of an EPG, i.e. one day of the scheduled TV programming; Col. 8, lines 57-60).

Herz does not clearly disclose the programmable device (RC) is a toy.

Heimbürger discloses a remote control is built as a toy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz' s programmable device (RC) to a Toy, as taught by Heimbürger, so to entice the users to have fun and amusement while using the remote control.



Regarding claim 2, Herz further discloses, wherein said one of the receiving station (TV set) and the programmable device (RC) is configured to select the portion of the program data according to a set of stored user preferences and to discard the remainder of the program data (the RC can be programmed to according to the preferences defined by different users... i.e. the RC stores only preferred channels and discards the rest; Col. 10, lines 40-59).

Regarding claim 3, Herz further discloses, said one of the receiving station and the programmable device (RC) is configured to construct the set of stored user preferences (the soft GUI of the present invention provides a personalized RC option for different users... User-specific settings such as preferred

channels... etc. can be programmed and stored in the RC memory... Col. 10, lines 40-59).

Regarding claim 8, Herz further discloses, wherein each of the receiving station (TV set) and the programmable device (RC) includes a transceiver 213,226 for bi-directional communication between the receiving station and the programmable device, and wherein the programmable device is configured as an input device (RC) to the receiving station (see Fig. 2; Col. 5, lines 34-53).

Regarding claim 9, Herz further discloses, wherein the transceivers comprise wireless transceivers (Infrared communicator 213, 226 of Fig. 2; Col. 3, lines 19-20 and lines 29-30).

Regarding claim 10, Herz further discloses, wherein the receiving station (TV set) is configured to transmit instructional cues to the programmable device (RC) and wherein the programmable device is configured to provide the instructional cues (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16) to a user (Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

Regarding claim 23, Herz discloses a programmable device (RC; Fig. 2, element 210) comprising:

A memory 216 configured to store program data (EPG; Col. 3, lines 52-55).

A control unit 212 configured to perform one or more actions based on the program data (i.e. EPG) stored in the memory 216 (Col. 3, lines 55-60); and

A receiver 213 configured to receive the program data (EPG; Col. 8, lines 45-52);

Wherein the programmable device (RC) is configured to select a portion of the program data (EPG) and store the portion of the program data in the memory 216 and to discard the remainder of the program data (The RC is configured to select only a portion of the received EPG data, i.e. one day of the scheduled TV programming, based on the availability of RAM on the RC, see Col. 8, lines 57-60 or based on the user preferred setting stored in the RC, see Col. 10, lines 40-47).

Herz does not clearly disclose the programmable device (RC) is a toy.

Heimbürger discloses a remote control is built as a toy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz's programmable device (RC) to a Toy, as taught by Heimbürger, so to entice the users to have fun and amusement while using the remote control.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Heimbürger (DES 386184), and further in view of Rosenthal et al. (US 5223815).

Regarding claim 4, Herz in view of Heimbürger discloses the receiving station (TV set) is configured to transmit a notification signal (IR request) to the programmable device (RC) to indicate that the receiving station is ready to transmit

the program data to the programmable device (Herz; Col. 7, lines 27-49 and Col. 14, lines 56-65).

Herz in view of Heimburger does not disclose wherein the programmable device (RC) is configured to emit a user-sensible signal to indicate that the programmable device (RC) should be brought into communication with the receiving station. However, Herz discloses if only IR signal is configured for communicating between the RC and the TV set and when the RC is not within the communication range with the TV set, the RC and the TV set will not communicate until they are both within range (Col. 14, lines 56-65).

Rosenthal discloses a transmitter unit transmits a signal 14 to a receiver unit 13. If the strength of the receiving signal, at the receiver, is below the predetermined reference signal voltage (outside the communication range), then the receiver generates a speech (alarm) from the speech synthesizer 18 to indicate that receiver is out-of range; see col. 4, lines 44-~~47~~.<sup>67</sup>

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Heimburger to have a mechanism to notify the user when the receiver device and the transmitter device are not within the communication range, as taught by Rosenthal, so to always keep both devices, transmitter and receiver, within the range of communication.



3. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Heimbürger (DES 386184), and further in view of Goodman et al. (US 6427238).

Regarding claim 5, Herz in view of Heimbürger does not clearly disclose, “the broadcast station is configured to cyclically transmit a carousel of modules containing the program data”.

Goodman discloses the broadcast station is configured to cyclically transmit a carousel of modules containing the program data (Col. 3, lines 46-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Heimbürger to configure a broadcasting station to transmit carousel of modules in a cyclic manner, as taught by Goodman, so to provide the interactive television system operable without requiring a reverse channel for communications with the transmission head-end and moreover to take the advantages of software applications written in modular fashion by conserving the limited amount of memory in the set-top box, reducing the time required to download applications from a broadcast station to a set-top box (Col. 2, lines 1-5).

Regarding claim 6, Herz further discloses, wherein said one of the receiving station (TV set) and the programmable device (RC) is configured to select the portion of the program data without transmitting an indication of the portion of the program data to the broadcast station (all the functions are

executed on the RC and control signals are communicates from the RC to the TV set; Col. 10, lines 52-11).

Regarding claim 7, Herz further discloses, wherein the broadcast station comprises a television broadcast station (cable company; Col. 8, lines 41-44).

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Heimbürger (DES 386184), and further in view of Aldava et al. (US 5191615).

Regarding claim 11, Herz in view of Heimbürger does not clearly disclose, "the instructional cues comprise streaming speech data, wherein the programmable device is configured to transmit the streaming speech data to the speaker upon receipt of the streaming speech data from the receiving station."

Aldava discloses a programmable toy 300 receives the streaming speech data from the receiving station 200 and the programmable toy is configured to transmit the streaming speech data to the speaker (Col. 3, lines 63-Col.4, lines 5, lines 13-18, lines 44-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Heimbürger to have instructional cues comprise streaming speech data, wherein the programmable device (RC) is configured to transmit the streaming speech data to the speaker upon receipt of the streaming speech data from the TV set, as taught by Aldava, so the programmable device (RC) could produce real-time speaking sound

as the TV programming displayed and heard from the television (Col. 15, lines 36-42).

5. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman et al. (US 6427238) in view of Herz (US 6407779).

Regarding claim 12, Goodman discloses a method comprising:

Broadcasting data to a plurality of receiving stations (TV set) (Fig. 1; Col. 4, lines 43-Col. 5, lines 2);

Receiving the data modules at one of the receiving stations (Col. 7, lines 24-48).

Goodman does not clearly disclose, "Selecting a portion of the data"; "Transmitting the selected portion of the data to a programmable device; and programming the programmable device according to the selected portion of the data".

Herz discloses (Fig. 1) the TV set selects a portion of the broadcast data received (selects EPG data among data received from broadcast data), transmits the selected portion of the data (transmits EPG) to a programmable device (RC) (Col. 8, lines 41-49); and programming the programmable device (RC) according to the selected portion of the data (configuring the RC to display the received EPG; Col. 9, lines 3-27 and Col. 10, lines 40-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goodman by transmitting a portion of

the broadcast data received at the TV set to a programmable device, as taught by Herz, so to provide a programmable device (RC) that is capable of storing and updating TV program guide information in the programmable device memory (Col. 1, lines 54-58).

Regarding claim 13, Herz further discloses a user locally selecting the selected portion of the data (Col. 9, lines 3-10).

Regarding claim 14, Herz further discloses wherein the selecting comprises the user manually selecting the selected portion of the data using the programmable device as an input device (RC; Col. 9, lines 3-47).

Regarding claim 15, Herz further discloses, "comprising filtering the data according to a set of user preferences to select the selected portion of the data" (Col. 10, lines 40-56).

Regarding claim 16, Herz further discloses, "comprising building the set of user preferences" (Col. 10, lines 42-47).

Regarding claim 17, Herz further discloses, "wherein transmitting the selected portion of the data to the programmable device is performed using a wireless communication link between the receiving station and the programmable device" (Col. 8, lines 41-50).

Regarding claim 18, Herz further discloses, wherein the wireless communications link comprises a bi-directional link (Fig. 1-2; Col. 14, lines 56-65).

Regarding claim 19, Goodman discloses "wherein broadcasting the data comprises cyclically transmitting a carousel of data modules (Col. 3, lines 46-61).

Regarding claim 20, Goodman discloses, "wherein the broadcasting the carousel of data modules comprises transmitting the data modules via the broadcast channel of an interactive television network" (see Abstract; Fig. 1).

Regarding claim 21, Herz further discloses "automatically initiating transmission of the selected portion of the data from the receiving station to the programmable device when the programmable device is within range to establish the wireless communications link to the receiving station" (Col. 14, lines 60-Col. 15, lines 6).

Regarding claim 22, Herz further discloses, "transmitting one or more cues to the programmable device" (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16; see Herz' s Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Darbee et al. (US 6130726) shows a program guide on a remote control display.

Huang et al. (US 6437836) shows an extended functionally remote control system and method therefore.

MacBride (DES 732030) shows a TV remote control device.

Chernock et al. (US 6177930) shows a system and method for enabling a user to move between cyclically transmitted image streams.

Wharton et al. (US 5831664) shows a method and system for synchronizing data between at least one mobile interface device and an interactive terminal.

D'angelo et al. (US 6265974) shows systems and methods for monitoring spatial relationship between mobile objects.

**Contact Fax Information**

**Any response to this action should be mailed to:**

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**or Faxed to: (703) 872-9314**

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (703) 308-7372. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Hai Tran



Examiner  
Art Unit 2611

June 29, 2003